IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

Crl.MC.No. 3348 of 2007()

CC.94/2005 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

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PETITIONER: ACCUSED

C.S.SABU, CHATHANATHU HOUSE,
NJARAKKAL P.O., ERNAKULAM.

BY ADV. SRI.C.S.MANILAL

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3348 of 2007

Dated this the 2nd day of November 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable under Sections 457, 461 and 380 read with 34 I.P.C. Cognizance has already been taken. The case has been registered as C.C.No.94/05. The petitioner has not so far entered appearance. It is submitted that at the crime stage also, the petitioner was not arrested and released on bail. Because of the non-appearance of the petitioner, the learned Magistrate has initiated coercive proceedings against the petitioner. Such coercive processes are chasing the petitioner.

2. According to the petitioner, he is absolutely innocent. He has no knowledge of the proceedings initiated against him. He is willing to appear before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007